



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/154891

PRELIMINARY RECITALS

Pursuant to a petition filed January 16, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on February 13, 2014, at Kenosha, Wisconsin.

NOTE: Petitioner ended the hearing abruptly, by hanging up after expressing considerable frustration over his ever fluctuating and decreasing FoodShare benefits.

The issue for determination is whether the Kenosha County Human Service Department correctly determined Petitioner's FoodShare allotment, effective February 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.

2. Effective January 1, 2014, Petitioner's Social Security Disability Income increased from \$710 per month to \$721 per month. Petitioner continued to receive State SSI benefits in the amount of \$83.78 per month. (Exhibit 2)
3. On December 30, 2014, the agency sent Petitioner a notice indicating that as of February 1, 2014, his FoodShare benefits would be decreased from \$170.00 per month to \$165.00 per month, because his income increased. (Exhibit 4)
4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 16, 2014. (Exhibit 1)
5. Petitioner's assistance group size is one; and his household is considered an Elderly, Blind or Disabled Household. (Testimony of Ms. Mayer and Petitioner)
6. Petitioner pays rent in the amount of \$450.00 per month. (Id. ; Exhibit 4)

DISCUSSION

In order to receive FoodShare benefits a household must have **gross** income at or below 200% of the Federal Poverty Limit (FPL), though the gross income test does not apply where a household has a member over age 60. (Emphasis added) *7 Code of Federal Regulations (CFR)*, §273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 1.1.4. The agency must budget all income of the FoodShare household, including all earned and unearned income. *7 CFR § 273.9(b)*; *FoodShare Wisconsin Handbook (FSH)*, § 4.3.1. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH*, §4.1.1.

Effective January 1, 2014, Petitioner's gross income was:

\$721.00 SSDI + \$83.78 State SSI = \$804.78 gross unearned income.

The 200% Gross Income limit for a household of one is \$1916.00 *FSH* §8.1.1.1 Petitioner's income of \$793.78 per month is below that gross income limit, so Petitioner is eligible for the FoodShare program.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH*, at § 4.6):

- (1) a standard deduction –

This is \$152 per month for a household of 1-3 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;

This does not apply, because Petitioner has no earned income

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;

Petitioner did not report any such expenses.

- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

This does not apply to Petitioner.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

During the time in question, the heating standard utility allowance (HSUA) was \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation:

Gross Income	\$804.78	Rent	\$450.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$326.39
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$573.61
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Net Income Before Shelter Ded.	\$652.78		
Excess Shelter Expense	- \$573.61		
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Net Income	\$79.17		

Individuals, in a household of one, with a net income of \$79.17 qualify for a FoodShare allotment of \$165.00 per month. *FSH* §8.1.2. See also Exhibit 7

CONCLUSIONS OF LAW

The agency correctly determined Petitioner’s FoodShare benefits effective February 1, 2014.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of March, 2014

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 11, 2014.

Kenosha County Human Service Department
Division of Health Care Access and Accountability